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12 ATTORNEYS FOR PLAINTIFF  
13 B&G FOODS NORTH AMERICA, INC.

14 B&G FOOD NORTH AMERICA, INC.,

15 Plaintiff,

16 v.

17 KIM EMBRY and NOAM GLICK, acting in the  
18 purported public interest of the general public of  
19 the State of California,

20 Defendants.

21 Case No. 2:20-cv-00526-KJM-DB

22 **DECLARATION OF DAVID H.  
23 KWASNIEWSKI IN OPPOSITION TO  
24 DEFENDANTS' MOTION TO DISMISS  
25 COMPLAINT**

26 Date: July 24, 2020  
27 Time: 10:00 a.m.  
28 Judge: Hon. Kimberly Mueller  
Courtroom: 3

1 I, David H. Kwasniewski, declare:

2 1. I am licensed to practice before this Court and am an attorney at BraunHagey &  
 3 Borden LLP, counsel for Plaintiff B&G Foods North America, Inc. in this action. If called as a  
 4 witness, I could, and would, testify competently to the facts below.

5 2. On March 20, 2020, I attended a meet and confer with Embry's lawyers about  
 6 scheduling her deposition. During that call, Embry's lawyers objected to B&G Foods taking her  
 7 deposition, stating that Embry lacked any "percipient knowledge" regarding the claim she asserted  
 8 against B&G Foods.

9 3. The table below summarizes the following information from OEHHA's Budget  
 10 Report, a true and correct copy of which is attached as **Exhibit 1**: (1) OEHHA's annual budget; (2)  
 11 the amount of funding OEHHA received from Proposition 65 civil penalties; and (3) the percentage  
 12 of OEHHA's annual budget that was funded by Proposition 65 civil penalties. As shown in the  
 13 table below, Proposition 65 civil penalties have accounted for more than 15 percent of OEHHA's  
 14 annual budget over the last three fiscal years:

Year	OEHHA Budget	Prop. 65 Civil Penalties	Percentage of Funding
2017-18	\$23.453 Million	\$3.702 Million	15.8%
2018-19	\$28.615 Million	\$4.764 Million	16.6%
2019-20	\$28.362 Million	\$3.909 Million	13.8%
<b>Cumulative</b>	<b>\$80.43 Million</b>	<b>\$12.38 Million</b>	<b>15.4%</b>

21 I declare under penalty of perjury under the laws of the State of California that the  
 22 foregoing is true and correct to the best of my knowledge, information, and belief.

23  
 24 Dated: June 1, 2020

25 By: \_\_\_\_\_

26  
 27  
 28   
 David H. Kwasniewski